

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

YUKOS CAPITAL S.A.R.L., et al.,

Plaintiffs,

Case No. 15-4964-LAK

-against-

DANIEL CALEB FELDMAN,

Defendant.

**DECLARATION OF JEFFREY D. BROOKS IN SUPPORT OF PLAINTIFFS' MOTION
FOR SANCTIONS UNDER RULE 37 AND THE COURT'S INHERENT POWERS**

JEFFREY D. BROOKS, an attorney duly admitted to practice law before this Court, declares the following under penalty of perjury:

1. I am a member of the law firm of Morrison Cohen LLP, counsel for Plaintiffs Yukos Capital S.A.R.L., Yukos Hydrocarbons Investments Limited, Stichting Administratiekantoor Yukos International, Stichting Administratiekantoor Financial Performance Holdings, Luxtona Limited and Marc Fleischman, as trustee of the 2015 Security Trust as successor in interest to the 2004 Security Trust (collectively, the "Plaintiffs") and, as such, I am fully familiar with the facts and circumstances set forth herein. I submit this Declaration in further support of Plaintiffs' motion for Sanctions under Rule 37 and the Court's Inherent Powers.

Feldman's Deposition Testimony

2. Excerpts from the Transcripts of Defendant Daniel Feldman's Depositions, dated December 16, 2015, June 21, 2016, and October 12, 2017, are attached hereto as **Exhibit 1**.

3. The only portion of Feldman's deposition testimony on June 21, 2016 that addressed possible introductory fees, finder's fees, or kickbacks paid to Feldman or Dmitri

Merinson by banks or financial institutions serving the Yukos Group was the testimony on pages 389-91 of Exhibit 1. Feldman's testimony at that deposition made no reference to whether any such payment to Merinson was "improper or illicit," nor did it draw any distinctions based on the propriety of any such payment.

4. A Compact Disc ("CD") containing a video copy of the portion of Feldman's June 21, 2016 Deposition Testimony corresponding to pages 389-91 of the Transcript is attached hereto as **Exhibit 2**.

5. Feldman's December 16, 2015 Deposition was not videotaped.

Merinson's "Finder's Fees" Were Related to the Transfer of Funds Into Yukos Group Accounts at Julius Baer

6. In Defendant's Memorandum of Law in Opposition to Plaintiff's Motion for Sanctions, dated January 16, 2018, ("Defendant's Opposition Brief") Defendant argues that documents concerning Julius Baer would not have been responsive to Plaintiffs' document request for "[a]ll documents concerning the transfer of funds in or out of any accounts belonging to any member of the Yukos Group or the Trust" because Feldman never "transferred or approved the transfer of money *from* a Yukos Group account." (p. 7) (emphasis added). That argument is wrong because the "finder's fees" Julius Baer paid Merinson were negotiated and paid in connection with the transfer of money *into* Yukos Group accounts at Julius Baer. *See, e.g.,* Excerpts from Feldman's October 12, 2017 Deposition Transcript, Exhibit 1 hereto at page 510-13.

Theede Did Not "Confirm" Any Death Threat

7. In Defendant's Opposition Brief, Defendant asserts that Defendant's counsel asked Yukos Group witnesses "about their contact with Mikhail Brudno because Foundations Director Marc Fleischman *boasted that he could have Brudno murder Feldman.*" (p. 18)

(emphasis in original). In support of this ridiculous allegation, Defendant first cites his own, now-dismissed Counterclaim in this action. Defendant then states that “[t]his threat was confirmed, albeit through hearsay, by Steven Theede, another director of the Foundations.” (p. 18).

8. But Theede did not “confirm” the alleged threat. Rather, Theede only “confirmed” that Dmitri Merinson – Feldman’s partner in numerous fraudulent schemes -- had alleged that “Mr. Fleischman made a death threat against Mr. Feldman” in Merinson’s presence. Theede did not believe Merinson. Theede testified that “I hesitate to even bring it up because it is so outrageously farfetched I don’t – I hate to give it credibility” See pages 150-51 of the Excerpts from the Transcript of Steven Theede’s Depositions, dated June 28, 2016, attached hereto as **Exhibit 3**.

Feldman’s Additional Banking Records Have Still Not Been Produced

9. In his January 16, 2018 Declaration, Feldman states that he has been informed by HSBC that it has additional records. Feldman states that “[a]s soon as I am able to obtain these records, I will produce them to Plaintiffs immediately.” As of today – 10 days after Feldman executed his Declaration – Feldman has not produced those records.

10. I declare under penalty of perjury that the foregoing is true and correct.

WHEREFORE, for all of the reasons set forth above and in the accompanying Reply Memorandum of Law, Plaintiffs respectfully request that the Court grant Plaintiffs’ Motion for Sanctions under Rule 37 and the Court’s Inherent Powers.

Dated: New York, New York
January 26, 2018


JEFFREY D. BROOKS